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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,080	07/31/2001	Robert E. Gillis	016494-001200US	4438

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EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 12/09/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/920,080

Applicant(s)

GILLIS, ROBERT E.

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 6,13,14,19,27 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-12,15-18 and 20-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 and 3. 6) ☐ Other: _____

DETAILED ACTION

Election/Restriction

Applicant's election without traverse of Species I in Paper No. 6 is acknowledged. *However*, applicant has stated that he traverses the identification of the generic claims, i.e., applicant believes that claims 15 and 25 are also generic. Applicant's arguments are found to be persuasive and accordingly claims 15 and 25 are currently deemed generic. *Further*, claims 6, 13, 14, 19, 27, and 28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "22" has been used to designate both the spar and the cord, as in Figure 3b. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Title

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested:
--Lightweight Flexible Frame for Shelter Structure--.

Specification

The abstract of the disclosure is objected to because "is disclosed. The flexible shelter structure" in line 1 should be deleted, since the abstract should not contain phrases which can be inferred. Correction is required. See MPEP § 608.01(b).

Claim Objections

Claims 9 and 12 are objected to because of the following informalities:

In claim 9, lines 1-2, it is strongly suggested that "wherein said at least one spar has a first end and a second end and" be deleted and that "--of said at least one spar--" be inserted after "ends" in line 2. It is noted that claim 8 sets forth the ends of the spar.

In claim 12, line 2, it is strongly suggested that "said spars" be changed to "--said at least one spar--" since claim 1 recites "at least one spar".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10, 11, 20, and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The language of the recitation "capable of assuming" in claims 10, 20, and 23 is awkward thereby rendering the claims indefinite since it is unclear what is meant by "assuming". *Further,*

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claim 11 is rendered indefinite since it is unclear whether the claim is further defining the tension recited in claim 10. *Furthermore*, the structural relationship between the means and the pole is unclear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, 7-11, 16-18, 21-23, **25**, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Jaureguy '078.

Jaureguy '078 discloses a frame for a shelter structure comprising an elongated flexible (see page 1, lines 61-65) pole (10) having a first end and a second end each terminating in a common plane and having a substantially arcuate shape under tension whereby the tensioning means, i.e., 13, assist the pole in assuming the arcuate shape under tension; a plurality of spars (18) flexibly (at 19) connected directly to the pole and arranged substantially transversely thereto whereby the spars each have a bent shape, i.e., at 19 the spar is bent; each of the spars having a first end and a second end and the ends of the spars do not terminate in the common plane; and the frame having a membrane connected to the frame to define a sheltered space (see page 2, lines 15-20).

Claims 1-3, 5, 8-12, 16, 18, 21-23, **25**, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Spray '094.

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Spray '094 discloses a frame for a shelter structure comprising an elongated flexible (see column 4, line 49) pole (C) having a first end (at 11 in Figure 2) and a second end (at 10 in Figure 2) each terminating in a common plane and having a substantially arcuate shape under tension whereby the tensioning means (13 and 18 collectively) assist the pole in assuming the arcuate shape under tension; a plurality of spars (E) flexibly connected directly to the pole; each of the spars having a first end and a second end and the ends of the spars do not terminate in the common plane; and the frame having a flexible (see column 7, lines 23-27) membrane connected to the outside of the frame to define a sheltered space.

Claims 1, 2, 4, 5, 7-11, 16-18, 20-23, 25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Gerig '649.

Gerig '649 discloses a frame for a shelter structure comprising an elongated flexible pole (2) having a first end and a second end each terminating in a common plane and having a substantially arcuate shape under tension whereby the tensioning means (see Figure 7c) assist the pole in assuming the arcuate shape under tension; a plurality of spars (10) flexibly connected directly to the pole whereby the spars assume a substantially arcuate shape (see Figure 4); each of the spars having a first end and a second end and the ends of the spars do not terminate in the common plane; and the frame having a flexible (5) membrane connected to the frame to define a sheltered space.

Claims 1, 2, 4, 5, 8-12, 15, 16-18, 21-24, 25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Jager '311.

Jager '311 discloses a frame for a shelter structure comprising an elongated flexible pole (50) comprised of a plurality of interconnected members (see Figure 5) having a first end (at 74)

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and a second end (at 76) each terminating in a common plane and having a substantially arcuate shape under tension whereby the tensioning means (71) assist the pole in assuming the arcuate shape under tension; a plurality of spars (54) flexibly connected directly to the pole and substantially transversely thereto; each of the spars having a first end and a second end and the ends of the spars do not terminate in the common plane; and the frame having a flexible (see column 2, lines 50-52) membrane connected to the frame to define a sheltered space.

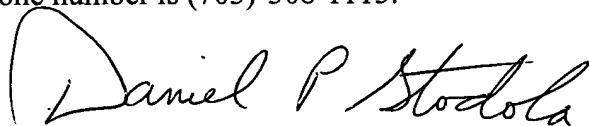
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reynolds, Fidler, Jr., and Kanne *et al.* show various shelter structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-305-3597 for regular communications and (703)-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1113.



Jennifer E. Novosad/jen
November 27, 2002

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
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